

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. Status of Claims

1. Claims 1-17 are currently pending in the application.
2. Claims 18-28 have been withdrawn from consideration following Applicant's election of Group I in response to the Restriction Requirement mailed May 20, 2005.
3. Claims 1, 2, 6, 12 and 13 have been amended. The amendments have been made without the introduction of new matter. Claim 1 has been amended to insert subpart indicia. Support for the amendments to claim 2 is found in the specification in paragraphs 3 and 4. Support for the amendments to claims 6 and 13 is found in the specification at paragraph 26. Support for the amendment to claim 12 is found in the specification at paragraph 34.
4. New claim 29 has been added. Support for claim 29 is found in the specification at paragraph 34.
5. Applicants reserve the right to pursue the subject matter of any currently withdrawn claims in one or more continuing applications.
6. Applicants wish to bring to the Examiner's attention a pending application of Applicants with claims directed to a formulation of a modified antibody, U.S. Patent Application No. 10/634,581 published as U.S. Publication No. U.S. 2004/0091490. A copy of the U.S. Publication is provided herewith.
7. Following the above amendments claims 1-17 and 29 remain pending in the application.

II. Withdrawn Claims

8. Claims 18-28 were withdrawn from consideration as being directed to a non-elected invention.
9. Applicants have withdrawn claims 18-28 subject to their possible rejoinder in accordance with the provisions of MPEP §821.04 as noted in paragraph 5 of the Restriction Requirement mailed May 20, 2005.

III. Claim Rejections under 35 U.S.C. §112, Second Paragraph

10. Claim 2 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. Applicants respectfully traverse this rejection.

Claim 2 has been amended to moot this rejection. The term “specificity” has been amended to recite “specific to” as provided in the specification at paragraphs 3 and 4. The term “specific to” as related to antibodies is well recognized by those of skill in the art.

In view of the above amendment and reasoning, applicants request withdrawal of a rejection and reconsideration of claim 2.

11. Claims 6 and 13-17 were objected to under 35 U.S.C. §112, second paragraph as being indefinite in the resuscitation of CDP870 on the basis that the characteristic of CDP870 was not known. Applicants respectfully traverse this rejection.

Claims 6 and 13 have been amended to moot this rejection. Applicants acknowledge the recommendation made by the Examiner to obviate this rejection.

In view of the above amendments, Applicants request withdrawal of the rejection and reconsideration of claims 6 and 13-17.

IV. Claim Rejections under 35 U.S.C. §112, First Paragraph

12. Claims 6 and 13-17 were rejected under 35 U.S.C. §112, first paragraph, as containing subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected to make and/or use the invention. Applicants respectfully traverse this rejection.

Claims 6 and 13 have been amended to moot this rejection. Applicants acknowledge the recommendation of the Examiner to obviate this rejection.

In view of the above amendments, Applicants request withdrawal of the rejection and reconsideration of claims 6 and 13-17.

V. Claim Rejections under 35 U.S.C. §103(a)

13. Claims 1-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Athwal et al.*, (WO01/94585) in view of *Relton*, (WO97/45140). Applicants respectfully traverse this rejection.

It is respectfully submitted that a *prima facie* rejection under 35 U.S.C. §103(a) has not been properly established. Applicants acknowledge the Examiner's statement that the '585 publication does not teach a stable formulation. Applicants, however, disagree with the characterization of the '140 publication as teaching stable antibody formulations in accordance with the pending claims. There is no teaching in the '140 publication of the stabilization of a modified antibody preparation which includes a nonproteinaceous polymer covalently attached to an antibody. Further, even if one of skill in the art were aware of the teaching provided in the '140 publication to provide a stable formulation for a modified antibody preparation which includes a nonproteinaceous polymer, the results of the application of such teaching would be unknown until actually tested. Obvious to try experiments disregard the "invention as a whole" concept under 35 U.S.C. §103.

Applicants request that in view of above reasoning, the Examiner reconsider and withdraw the rejection of claims 1-17 under 35 U.S.C. §103 (a) as being unpatentable over *Athwol et al.*, in view of *Relton*.

V. Conclusion

14. Applicants submit that all the grounds for rejection of the pending claims have now been overcome and that all the claims are now in condition for allowance, which action is respectfully requested.

In the event that the Examiner wishes to discuss any aspect of this communication, please contact the undersigned Attorney at the telephone number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nicholas I. Slepchuk, Jr.', written over a horizontal line.

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